

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRANCISCO MELGAR-CABRERA,

Petitioner,

v.

No. 19-cv-1056 WJ-KK

No. 09-cr-2962 WJ-KK

UNITED STATES OF AMERICA,

Respondent.

ORDER DENYING MOTION TO APPOINT COUNSEL

This matter is before the Court following Petitioner's Motion to Appoint Counsel in this 28 U.S.C. § 2255 Habeas Proceeding (CV Doc. 2). There is no constitutional right to such relief in a habeas proceeding. *See Coronado v. Ward*, 517 F.3d 1212, 1218 (10th Cir. 2008). Unless and until an evidentiary hearing is held, "[t]he decision to appoint counsel is left to the sound discretion of the district court." *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001). Factors guiding such discretion include "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). Considering these factors, the Court is not persuaded counsel should be appointed at this time. Petitioner raises a well-defined legal argument, and it is at least questionable whether he will prevail.

IT IS ORDERED that Petitioner's Motion to Appoint Counsel in this 28 U.S.C. § 2255 Habeas Proceeding (**CV Doc. 2**) is **DENIED** without prejudice.



UNITED STATES MAGISTRATE JUDGE